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EXAMINER

NAWAZ, ASAD M

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/812,872
Filing Date: March 19, 2001
Appellant(s): JACKSON, JARED J.

International Business Machines
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/24/08 appealing from the Office action mailed 5/4/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0053078	Holtz et al	5-2002
6779040	Lee et al	8-2004

6563800

Salo et al

5-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 and 19-22 are rejected under 35 U.S.C. 103(a) as being anticipated by Lee et al, 6,779,040 (Lee hereafter) further in view of Holtz et al (US patent publication No. 20020053078 A1).

As per claims 3 and 13, Lee teaches a system comprising: at least one networked device (104, fig. 1; col. 4, lines 31-32; client computer is a network device); and a content server for delivering content information to the at least one networked device (102, fig. 1; col. 4, line 42-46; server provides image content to client devices), the content server including: a first memory for storing at least one of an image delivery parameter and an image presentation parameter associated with a networked device (col. 4, lines 11-15; server stores user device's capabilities and preferences associated with the images stored on the device);

a network interface for communicating with a network link communicatively coupled with the at least one networked device (network interface is an inherent component of a network device);

a controller, communicatively coupled to the first memory and to the network interface (controller is an inherent component of server device);

and a second memory, communicatively coupled to the controller, for storing computer instructions for the controller to control the content server for (also inherent component of server device for processing client requests):

receiving a request for delivery of content information to the at least one networked device, the content information comprising image information (col. 4, lines 18-23; server receives requests from client for image data);

and determining, based on an automatically determined image delivery parameter and an image presentation parameter associated with the at least one networked device, an image format for the image information for delivery of the image information to the at least one networked device and for presentation of the image information at the at least one networked device (col. 4, lines 18-23; upon receiving the image request from a client, the server retrieves the image file and determines the format of the image file according to the client's capabilities or preferences to be delivered to the client);

and providing a response for the request, the response comprising at least a portion of the image information in the image format (col. 4, lines 25-28; server then sends the image response to the client).

However, Lee does not explicitly indicate the request including a session information pertaining to the current communication session between the networked device and a server, the session information being separate from the request for delivery of image information and the image delivery parameter and the image presentation parameter associated with the networked device being contained in the session information.

Holtz et al teaches a session information pertaining to the current communication session between the networked device and a server, the session information being separate from the request for delivery of image information and the image delivery parameter and the image presentation parameter associated with the networked device being contained in the session information (refer to abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Holtz into those of Lee in order to make the system more secure. Keeping information such as session information allows for the parties involved to communicate in a longer session that has been authenticated without the need to repeatedly input repetitive information.

Claims 1, 2, 7 and 9 recite similar limitations as claims 3 and 13 and therefore rejected by similar rationale as those claims.

As per claim 11, Lee discloses a method comprising the steps of: storing an automatically determined image delivery parameter and an image presentation parameter associated with a networked device;

receiving a request for delivery of information to the networked device, the information comprising displayable image information (col 4, lines 10-28);

determining available image formats for the displayable image information (col. 2, lines 35-41; server determines from a plurality of different image formats to send to requesting client);

and selecting one of the available image formats, based at least in part on the automatically determined image delivery parameter and an image presentation parameter, for delivery to and presentation at the networked device (col. 2, lines 35-41; after determining from a plurality of image formats, the server selects a best matching version of the image data based on the user's capabilities and sends the image response to the client).

As per claim 4, Lee teaches couple the response to the network interface, the response being destined for reception by the networked device (col. 4, lines 25-28; server sends response to client device).

As per claims 5-6, Lee teaches the second memory includes computer instruction for the controller to control the server system to: receive, along with the request, the at least one of the image delivery parameter and the image presentation parameter associated with the networked device (col. 4, lines 13-18);

and store the at least one of the image delivery parameter and the image presentation parameter in the first memory (col. 4, lines 13-18; server receives user preferences and capabilities along with the request from the user device; server also stores user preferences and capabilities for future reference);

server receives the request from one of the networked device and another requester device (inherent from disclosed invention; server is capable to receive and process plurality of requests from plurality of clients).

As per claims 8, 10, 12, and 14, Lee teaches the step of providing a response for the request, the response comprising at least a portion of the displayable image information in the image format; and sending the file to a network interface, the file being destined for reception by the networked device (col. 4, lines 25-28; server sends image response to user's device).

As per claim 15, Lee teaches the first memory comprises a first database for storing records containing image delivery parameters and image presentation parameters associated with the at least one networked device (col. 4, lines 13-15), and a second database for storing at least one image record (col. 4, lines 11-13).

As per claim 19, Lee teaches image format is selected from a set of image formats including binary bitmap and vector-based graphics (col. 5, lines 27-30; Cartesian volume is the vector-based graphics of JPEG images).

As per claim 20, Lee teaches image format is selected from a set of image formats including JPEG (col. 4, lines 12).

As per claims 21-22, Lee teaches the image delivery parameter corresponds to POTS (114, fig. 1; col. 4, lines 36-38); image presentation parameter corresponds to Desktop Workstation (104, fig. 1; col. 4, lines 32-33).

Claims 16-18 are rejected under 35 U.S.C.103(a) as being unpatentable over Lee and Holtz et al in view of Salo et al, 6,563,800 (Salo hereafter).

As per claim 16, Lee and Holtz teach the system of claim 13, wherein the controller requests at least the determination, base on at least one of an image delivery parameter and an image presentation parameter associated with the at least one networked device an image format for the image information.

However, Lee and Holtz do not explicitly indicate a controller using Application Programming Interface call to request the determination method. Salo teaches a controller using Application Programming Interface call to request the determination method (see Salo disclosure col. 13, lines 30-37).

However, it is well known and would have been obvious to one of ordinary skill in the art to use API calls between the application program objects and low level interface of the operating system.

As to claim 17, Lee and Holtz teach the system of claim 16 further comprising an image response. However, Lee and Holtz fail to teach the response being to an API call.

Salo teaches a controller using Application Programming Interface call to request the determination method (see Salo disclosure col. 13, lines 30-37).

However, it is well known and would have been obvious to one of ordinary skill in the art to use API calls between the application program objects and low level interface of the operating system.

As to claim 18, Lee and Holtz teach the system of claim 16 further comprising an image proxy engine but does not explicitly indicate the method being in response to an API request.

Salo teaches a controller using Application Programming Interface call to request the determination method (see Salo disclosure col. 13, lines 30-37).

However, it is well known and would have been obvious to one of ordinary skill in the art to use API calls between the application program objects and low level interface of the operating system.

(10) Response to Argument

In this section the Examiner will summarize the appellant's arguments and address them individually. At the onset, it should be noted that on page 12 of the brief, the appellant's have chose independent claim 1 as a representative claim of all independent claims. Therefore, the response to the arguments will be made accordingly.

Argument A: Lee is silent regarding session information and the image delivery and image presentation parameters are not separate (see brief page 14).

In response to A), the claim language states the request for delivery of image information is separate from the session information which comprises the image delivery parameter and the image presentation parameter. Lee teaches "a user may specify a set of user computer capabilities and user preferences while requesting a particular JPEG image from the server computer" (see col 4, lines 13-18). Therefore

along with a request for the JPEG image, session information comprising a user computer capability and user preferences is also transmitted (thus being separate). The capability and user preferences are used to determine the size, resolution, compression, format, etc of the requested JPEG image (see fig 1, col 4, lines 29-59). Therefore, Lee in view of Holtz still meet the scope of the limitations as claimed.

Argument B: There is no motivation to combine Lee and Holtz (see brief page 15).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is generally known in the art that a session is created between a client and a server during a mutual sharing of information/messages/requests. It is here that Holtz was utilized to show that sessions are common in the field and essential for security.

Furthermore, Lee is directed is directed towards the requesting and reception of media data. Likewise, Holtz is also from a similar field of endeavor. It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was

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concerned, in order to be relied upon as a basis for rejection of the claimed invention.

See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Argument C: Fields is not a proper reference as it is a commonly assigned application (see brief page 22).

Fields was never applied as prior art in the final rejection sent 5/4/07. Instead, it was a typographical error. Nevertheless, the Fields disclosure was not applied to any claims and the error has been corrected.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Asad Nawaz

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